

DRAFT
CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: FUNDING FOR MAINTENANCE ASSESSMENT DISTRICT
FORMATION

POLICY NO:
EFFECTIVE DATE:

BACKGROUND

Maintenance Assessment Districts (*MADs*) are established by the City of San Diego as a means of providing property owners with the opportunity to assess themselves to pay for enhanced *improvements, maintenance*, services and activities, known as *Special Benefits*, in their neighborhood or community beyond those generally provided by the City, known as *General Benefits*. *MADs* are authorized by the State of California in the Landscape and Lighting Act of 1972 (Part 2, Division 15, California Streets and Highways Code, Sections 22500 et seq.) and through provisions of Article XIID of the California Constitution (Proposition 218); and by the City of San Diego through provisions of the San Diego Maintenance Assessment District Ordinance (Division 2, Article 5, Chapter VI, Sections 65.0201 et seq.). Provided that a *MAD* meets these governing provisions of State and local law, a *MAD* may: 1) maintain a variety of *improvements* within public rights-of-way and other publicly-owned land; 2) provide a variety of enhanced *maintenance* and services; and, 3) be used on a more limited basis to fund acquisition of parkland or open space, for park and recreation *improvements* and *maintenance*, and for construction and installation of public *improvements*.

MAD formation is often initiated by a developer during the development of a new community, or by property owners within an already-developed community who desire *Special Benefits*. The formation process requires close coordination with Park and Recreation Department staff for residential or mixed-use *MADs*, or Community and Economic Development Department staff for commercial districts to be managed by a non-profit organization pursuant to San Diego Municipal Code Sections 65.0201 et seq, and generally requires that the initiating party pay for the preparation of an *Assessment Engineer's Report*, the cost of balloting, administrative costs, and other incidental expenses. In *Developing Communities*, this cost may be funded by a developer or other private contribution. However, because this cost may be prohibitive for property owners in some already-developed areas, the San Diego City Council has created a *MAD Formation Fund* of \$150,000 to assist in financing these start-up costs.

PURPOSE

The intent of this policy is to set forth the criteria for establishing new *MADs* either through the use of the *MAD Formation Fund* by *Developed Communities*, or through developer deposits for *Developing Communities*.

DEFINITIONS

1. *Assessment Engineer's Report* refers to a report prepared by an assessment engineer pursuant to California Streets and Highways Code Sections 22500 et seq., California Constitution Article XIID, and San Diego Municipal Code Sections 65.0201 et seq., as may be amended from time to time. This report typically contains the plans and specifications for the *improvement* of a specified *MAD*, an estimate of the costs of the *improvements* and *maintenance* of the *improvements*, a diagram of the specified *MAD*, the assessments proposed to be levied in each parcel within the *MAD*, and any other information required by law or determined by the engineer or the City to be relevant with respect to the *MAD*.
2. *Developed Community* means a community that is built out, with all initial construction complete, and in which no developer-initiated *MAD* exists.
3. *Developing Community* means a community that is being constructed by a developer and is not built out.
4. *General Benefit* means baseline level of public land maintenance services, improvements, and activities provided by the City of San Diego throughout the City limits.
5. *Improvement* has the meaning contained in California Streets and Highways Code Section 22525, as amended from time to time. In addition, for purposes of this Council Policy, *improvement* also means the provision of security services; the installation or construction of ponds; the installation or construction of flood control or drainage facilities; or the installation or construction of any other facilities, or, the provisions of any other property-related services deemed by the City Council to provide a *Special Benefit* to real property within a *MAD*.
6. *MAD* means a Maintenance Assessment District formed pursuant to California Streets and Highways Code Sections 22500 et seq., California Constitution Article XIID, and San Diego Municipal Code Sections 65.0201 et seq., as may be amended from time to time.
7. *MAD Formation Fund* means the Formation Fund initially containing \$150,000 as established by the City Council through Ordinance No. O-19083 on July 30, 2002, to assist eligible *Developed Communities* seeking to form a *MAD* for the purpose of providing *Special Benefit* and which must be re-paid through the first year's assessment collected from property owners in the *MAD*.
8. *Maintain or Maintenance* has the meaning contained in California Streets and Highways

Code Section 22531, as amended from time to time. In addition, for purposes of this Council Policy, *maintain* or *maintenance* also means the furnishing of property-related services and materials for the ordinary and usual *maintenance*, operation, and servicing of any *improvement*.

- 9 *Special Benefit* has the meaning contained in California Constitution, Article XIID, Section 2, as amended from time to time. In addition, for purposes of this Council Policy, *Special Benefit* also means the enhanced public lands maintenance services, improvements, and activities that are provided by a *MAD* over and above the general maintenance, improvements and activities the City provides to the general public.

POLICY

Developed Communities

It is the policy of the City of San Diego to assist eligible *Developed Communities* seeking to form a *MAD* for the purpose of providing *Special Benefit*. Through the \$150,000 in the *MAD Formation Fund* created by resolution of the City Council, the City may pay costs and related expenses, or a portion thereof, necessary for initial district formation, including *Assessment Engineer's Reports*, balloting, administrative costs, and other incidental expenses. It is the intent of this Council Policy that any formation advocacy costs, including fliers and handouts, are not reimbursable costs.

A maximum of \$50,000 may be used by the City from this *MAD Formation Fund* for the formation of any *MAD*. If the *MAD* is successfully formed, the total amount used by the City for *MAD* formation must be repaid in full by the community through the first year's assessments collected from property owners in the *MAD*. Since the *MAD Formation Fund* was established by the City Council with the anticipation that revenues would be replenished through assessment collections, it is important that any communities receiving these funds have a strong chance of completing district formation, otherwise, the funding may be lost.

A. Criteria for Funding

Funding requests will be evaluated by the City Park and Recreation Department staff for residential or mixed-use *MADs*, and by the Community and Economic Development Department staff for commercial *MADs*. All of the following criteria must be met before monies from the *MAD Formation Fund* may be used in the *MAD* formation process for a *Developed Community*:

1. A project description has been developed which includes:
 - a) the proposed *Improvements* to be maintained by the *MAD*;
 - b) the proposed *MAD* boundaries;
 - c) any proposed new *Improvements* to be installed, maintained and funded by the *MAD*; and
 - d) a preliminary estimate of anticipated assessments to be levied on property

owners within the proposed *MAD* boundaries. This estimate may be developed in conjunction with City of San Diego staff, based on the information provided by the community in Criteria 1a)–1c).

2. The amount of up-front funding needed from the *MAD Formation Fund* to pay for the *Assessment Engineer's Report* and other incidental costs has been determined, and does not exceed \$50,000.
3. Where the proposed *MAD* boundaries are substantially similar to those of the officially recognized community planning area boundaries, documentation in the form of minutes has been provided showing that the officially recognized community planning committee:
 - a) Has held at least two (2) publicly-noticed meetings to discuss the proposed *MAD* concept, in compliance with that planning committee's public noticing requirements;
 - b) supports by majority vote the proposed *MAD* concept, including all aspects listed in Criteria 1 above;
 - c) is aware of the estimated formation costs and understands the requirement to repay the *MAD Formation Fund* with the first year's assessments after successful district formation; and
 - d) has formed a *MAD* advisory subcommittee;
4. Where the proposed *MAD* boundaries are not substantially similar to the officially recognized community planning area boundaries, documentation in the form of a letter has been provided showing that a self-designated *MAD* advisory committee has been formed, and that this committee:
 - a) supports by majority vote the proposed *MAD* concept, including all aspects listed in Criteria 1 above;
 - b) has informed the officially recognized community planning committee for the area where the proposed *MAD* is located about the proposed *MAD* formation;
 - c) is aware of the estimated formation costs and understands the requirement to repay the *MAD Formation Fund* with the first year's assessments after successful district formation; and
 - d) has held at least two (2) meetings open to the public and has:
 - 1) published a notice of the meeting that accurately summarizes the proposed *MAD* concept and cost in a community newspaper, newsletter, or publication of similar distribution; and
 - 2) posted information about the proposed *MAD* at a community-accessible public building within the proposed *MAD* boundary.
5. A community-initiated petition containing valid, non-weighted signatures of at least 30% of the property owners within the proposed *MAD* area boundaries has been

submitted. This petition must:

- a) accurately describe the *MAD* proposal, including all aspects listed in Criteria 1 above;
 - b) disclose the estimated formation costs and disclose that any *MAD Formation Fund* monies must be repaid in full through assessments collected from *MAD* property owners within the first year following successful district formation; and
 - c) contain printed names, signatures, addresses and parcel numbers for each property owner signatory.
6. Any individual involved in the formation of the proposed *MAD* with an anticipated direct economic interest in the maintenance and/or management of the proposed *MAD* must disclose to the City and the community that potential economic interest.

The information necessary to meet the above criteria must be provided by the *Developed Community* and submitted to the appropriate City department by September 1 in order to form the district for the following fiscal year. For residential or mixed-use MADS, the information should be submitted to the Park and Recreation Department *MAD* Deputy Director. For commercial districts to be managed by a non-profit organization in accordance with the San Diego Municipal Code Sections 65.0201 et seq., this information should be submitted to the City Community and Economic Development Department Economic Development Deputy Director. City Park and Recreation Department *MAD* staff and City Community and Economic Development Department staff will assist any *Developed Communities* requesting funds in obtaining or developing the necessary information.

B. Ranking of *Developed Communities* Requesting Funding

In the event that the total amount of money in the *MAD Formation Fund* is less than the total amount needed to accommodate formation funding requests received from *Developed Communities* on September 1 of each year, funding requests will be jointly ranked by the City Park and Recreation and Community and Economic Development Departments based on the following criteria:

1. Amount of matching funds the *Developed Community* is able to provide to partially offset formation costs, thus either:
 - a) lowering the amount needed from the *MAD Formation Fund*; or,
 - b) providing additional funding to complete the formation process if the maximum amount of \$50,000 needed from the *MAD Formation Fund* is insufficient.
2. Percentage of additional valid property owner petition signatures the *Developed Community* is able to provide over and above the minimum required 30%, in increments of 5% (35%, 40%, 45%, etc).

3. Support from the officially recognized community planning committee for the proposed MAD area.
4. Location of the *Developed Community* relative to Council District boundaries. In order to permit equal *MAD* formation opportunities throughout the City, only one *MAD* per Council District will be considered for use of *MAD Formation Fund* monies in any one year, unless there are no other eligible proposals in other Council Districts.

Developing Communities

To establish a new *MAD* in a *Developing Community*, interested developers may deposit funds with the City to pay for the costs of formation, including the independent Assessment Engineer's Report, balloting costs, and City staff administrative costs. Any efforts to advocate the *MAD* formation are not considered part of the formation costs, and must be borne by the developer or the developer's agent. Developers must submit a project description as described above, and work closely with City staff in providing necessary information.

In general, the total cost of formation will vary depending on size, complexity, and scope of the proposed *MAD*. The developer would submit funds prior to the initiation of a new *MAD* formation study, with an expectation of full cost recovery for the City. The City Auditor and Comptroller is authorized, upon direction by the City Manager, to create special interest-bearing funds for the purpose of forming new *MADs*. These developer deposit funds are separate from the *MAD Formation Fund*, and would be identified in the annual Appropriation Ordinance.

If a surplus exists in the developer deposit fund for the particular *MAD* formation at the completion of the ballot process, the funds will be returned to the developer. If additional funds are required to complete the formation process, the developer will be charged for the cost of the remaining services.

Similarly to *Developed Communities*, upon a successful formation effort, the first year's assessments may be used to pay back the developer for formation costs associated with the Assessment Engineer's Report, balloting process, and City oversight costs. It is the intent of this Council Policy that any formation advocacy costs, including fliers and handouts, are not reimbursable costs.

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